



Department of Development Services  
205 Lawrence Street  
Marietta, Georgia 30060  
Brian Binzer, Director

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## STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2012-18

Legistar #: 20120422

Board of Zoning Appeals Hearing: Monday, May 21, 2012 – 6:00 p.m.

Property Owner/Applicant: Jonathan R. Bauman  
72 Griggs Street  
Marietta, GA 30064

Address: 72 Griggs Street

Land Lot: 02160 District: 17 Parcel: 0050

Council Ward: 5 Existing Zoning: R-4 (Residential Single Family 4 units/acre)

**Special Exception / Special Use / Variance(s) Requested:**

1. Variance to increase the height of a fence in the side yard from 4 ft. to 6 ft. [Sect. 710.04(A)]

### Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

### **Criteria:**

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

**PICTURES**





**Recommended Action:**

**Approval.** Applicant and owner, Jonathan R. Bauman is requesting a variance at 72 Griggs Street, SW that would allow him to enclose his back yard with a 6 ft. high wooden fence. The property is zoned R4 (Single Family Residential 4 units/acre), and is located at the northeast corner of Griggs Street and Wright Street. Directly behind the subject property is the Marietta Walk property, (old Johnny Walker Homes site), which is currently vacant, but with undeveloped residential parcels zoned MXD (Mixed Use Development). The two properties that are abutting the subject property to the east are zoned RA8 (Single Family Residential – Attached).

The applicant is applying for a variance to install a 6 ft. tall wooden fence along the side and rear yard areas of the subject property. Mr. Bauman is proposing to enclose the entire rear yard that will include a portion of the side yard so that his son can play safely in the rear yard. According to the submitted drawing, the fence along the side yard running parallel to Wright Street will be 6ft. away from the right-of-way. According to City Code, any fence fronting a public/private street shall not exceed 4 feet in height, and shall not be constructed within 2 feet of a public right-of-way. [710.04 (A)1].

Listed below are some of the most recent variance cases that requested variances to allow an increase of the height restriction on fences that are along public or private rights-of-way. Variance cases and the Board of Zoning Appeals decisions are listed below.



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- **V2012-07 – Approved – 243 Kennesaw Avenue**
    1. Variance to increase the height of a fence in the side yard from 4 ft. to 6 ft.
  - **V2011-06 – Approved – 840 N. St. Mary’s Lane and 697 Kennesaw Avenue**
    1. Variance to increase the maximum height of a fence within a yard fronting a public street from 4 ft. to 6 ft., and
    2. Variance to increase the maximum height of a fence within a side yard between the street and the front edge of the house from 4 ft. to 6 ft.
    3. Stipulation – Require 80% coverage of Leland Cypress between street and fence and require the fence to be stained.
  - **V2011-07 – Approved – 651 St. Anne’s Road**
    1. Variance to allow an 8 ft. tall wooden fence along the side yard fronting a public/private street; and
    2. Variance to allow a wooden fence to be within 2 ft. of the public right-of-way.
  - **V2011-08 – Approved – 213 Maxwell Avenue**
    1. Variance to allow an 8 ft. tall wooden fence along the yard fronting a public/private street;
    2. Variance to allow an 8 ft. tall wooden fence along the side yard fronting a public/private street;
    3. Variance to allow a wooden fence to be within 2 ft. of the public right-of-way;
    4. Denied variance to allow unfinished rear side of the fence to show (with the stipulation that the street side have vegetation along the fence).

In the past, Staff has recommended requiring additional landscaping to partially screen fences in similar situations. ***Staff recommends approval of this variance request***, with a stipulation to add landscaping to partially screen the fence along the side rear yard, as granting this variance is necessary for the preservation and enjoyment of the applicant’s property.